

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

PHH MORTGAGE CORPORATION,
Plaintiff

v.

**MARCUS STEWART, ANGELA
GOODMAN, and CARRIE STEWART AS
THE LEGAL GUARDIAN FOR MINOR
CHILDREN L.S., J.S., and Z.S.,**
Defendants

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CIVIL NO. 1:20-CV-00790-LY-SH

ORDER

Plaintiff PHH Mortgage Corporation (“PHH”) filed this action on July 24, 2020, seeking to foreclose on a note in the original principal sum of \$149,083.00 for property commonly known as 205 Lidell Street, Hutto, TX 78634, legally described as:¹

LOT 4, BLOCK “J”, HUTTO SQUARE SECTION 2, AN
ADDITION IN AND TO THE CITY OF HUTTO, WILLIAMSON
COUNTY, TEXAS, ACCORDING TO THE MAP OR PLAT
THEREOF RECORDED IN CABINET Y, SLIDE 154, OF THE
PLAT RECORDS, WILLIAMSON COUNTY, TEXAS

(the “Property”). Dkt. 10 ¶¶ 12, 13. Borrower Gwendlin Stewart (the “Decedent”) passed away on October 5, 2019, and her estate has not been probated. *Id.* ¶ 2.

PHH identified Decedent’s heirs as her son, Marcus Stewart; her daughter, Angela Goodman; and Goodman’s three minor children, L.S., J.S., and Z.S., who were adopted by the Decedent. Marcus Stewart and Carrie Stewart, as temporary legal guardian for the three minor children, were served in this action, but neither appeared nor answered. Dkt. 30. PHH was unable to locate Ms. Goodman, who was served by publication in January and February 2021. Dkt. 20.

¹ On July 27, 2020, the District Court referred to the undersigned Magistrate Judge all dispositive and nondispositive motions in this case for Report and Recommendation and resolution, respectively, pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. Dkt. 4.

On September 10, 2021, the Court appointed guardian ad litem Ellen P. Stewart to represent the interests of the Decedent's minor children in this litigation and attorney ad litem John A. Crane to represent Ms. Goodman's interest. Dkt. 30 at 4-5. Mr. Crane subsequently was appointed as receiver to sell the Property. Dkt. 40.

On May 11, 2022, the Court approved the sale of the Property and ordered that the legal fees and advanced expenses for the guardian ad litem, attorney ad litem and receiver be paid from the proceeds at closing. Dkt. 49 at 2-3. The Court further ordered that the escrow agent deliver the sale proceeds to the Clerk, United States District Court, for deposit into an interest-bearing account. *Id.* at 2.

On June 14, 2022, the Court ordered the Clerk to receive and deposit a check in the amount of \$109,151.53 representing the proceeds from the sale of the Property (the "Proceeds") into the Court Registry Investment System's Disputed Ownership Fund on behalf of the heirs of the Decedent. Dkt. 52. The Proceeds remain invested until further order of the Court. *Id.*

Having discharged all duties for which they were appointed, the Court **ORDERS** that the appointments of Ellen P. Stewart as Guardian Ad Litem and John A. Crane as Attorney Ad Litem and Receiver are hereby **TERMINATED**.²

The Court **HEREBY APPOINTS Wendi Lester Efflandt #24004401** as attorney ad litem to represent the interests of all of Decedent's potential heirs with respect to the Proceeds. On or before **October 14, 2022**, Ms. Efflandt shall file a report with the Court detailing her activities on behalf of the Decedent's heirs.

IT IS FURTHER ORDERED that Ms. Efflandt is hereby admitted *Pro Hac Vice* and may appear as guardian ad litem in this case and, pursuant to the Administrative Policies and Procedures

² The Court expresses appreciation to Ms. Stewart and Mr. Crane for their willingness to serve in these capacities and for their many efforts in this case.

for Electronic Filing in Civil and Criminal cases in the Western District of Texas, shall register as a filing user within 10 days of the date of this Order.

IT IS FURTHER ORDERED that, to the extent it has received all relief it sought in this litigation, PHH shall file a Stipulation of Dismissal and Proposed Final Judgment by **August 19, 2022**. After the Court enters judgment dismissing PHH, this case shall be restyled as *In re \$109,151.53*.

The Clerk is directed to email a copy of this Order to Attorney Ad Litem Wendi Lester Efflandt at wendi@heritagelaw.com.

IT IS SO ORDERED.

SIGNED on June 15, 2022.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE